UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/707,510	11/07/2000	Brian J. Huber	VOPN-0001	9738

7590   07/06/2004

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EXAMINER
KOPPIKAR, VIVEK D

ART UNIT	PAPER NUMBER
3626	

DATE MAILED: 07/06/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

-- *The MAILING DATE of this communication appears on the cover sheet with the correspondence address* --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE <u>3</u> MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1) ☒ Responsive to communication(s) filed on <u>07 November 2000</u>.

2a) ☐ This action is **FINAL**.   2b) ☒ This action is non-final.

3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4) ☒ Claim(s) <u>1-24</u> is/are pending in the application.

     4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5) ☐ Claim(s) _____ is/are allowed.

6) ☒ Claim(s) <u>1-24</u> is/are rejected.

7) ☐ Claim(s) _____ is/are objected to.

8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9) ☐ The specification is objected to by the Examiner.

10) ☒ The drawing(s) filed on <u>07 November 2000</u> is/are: a)☒ accepted or b)☐ objected to by the Examiner.

     Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

     Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

     a)☐ All   b)☐ Some * c)☐ None of:

       1.☐ Certified copies of the priority documents have been received.

       2.☐ Certified copies of the priority documents have been received in Application No. _____.

       3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

     * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)

2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____.

4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.

5) ☐ Notice of Informal Patent Application (PTO-152)

6) ☐ Other: _____.

DETAILED ACTION

Status of Application

1.   This communication is in response to the application filed by the applicants on November

7, 2000. The Information Disclosure Statement (IDS) filed by the applicants on December 3,

2001 has been acknowledged by the examiner. Claims 1-24 are pending in this application and

have been examined.

Claim Rejections - 35 USC § 103

2,   The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all

obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in
> section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are
> such that the subject matter as a whole would have been obvious at the time the invention was made to a person
> having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the
> manner in which the invention was made.

3.   Claims 1-24 are rejected under 35 U.S.C. 103(a) as being unpatentable over US Patent

Number 6,358,546 to Bebiak in view of US Patent Number 6,317,719 to Schrier.

Bebiak is directed towards a system for customizing pet food while Schrier is directed

towards a system and method for providing patient-specific drug information.

As per claims 1 and 13, which are directed towards a method of providing per dose

delivery of a veterinary oncology treatment agent, Bebiak teaches the steps of a) inputting via a

computer network specific characteristics of a veterinary patient and b) receiving a treatment

dose recommendation via the computer network in response to the inputting step (Col. 3, Ln. 22-

43).

Bebiak fails to teach the steps of recommending a specific agent dose, accepting the dose

recommendation via the computer network and placing an order for the treatment agent in

response to the accepting step. However these features are well known in the art as evidenced by Schrier (Col. 13, Ln. 5-59). At the time of the invention, one of ordinary skill in the art would have been motivated to modify the system of Bebiak with the above mentioned features in Schrier in order to provide to enable a user to order precise quantities or amounts of treatment agents online as recited in Schrier (Col. 13, Ln. 5-7).

As per claims 2, Schrier teaches the step of modifying (changing) the recommendation, wherein in the accepting step the modified (changed) recommendation is accepted (Col. 13, Ln. 12-16).

As per claims 3-4, 15 and 20, Schrier teaches the step of dispensing the treatment agent dose (from a centralized treatment facility—pharmacy) in response to the order placing step (Col. 13, Ln. 17-24).

As per claim 5, in Bebiak the customized results are nutritional formulations comprising multiple ingredients combined at the centralized dispensing facility (Figure 1—(Mixer-114)).

As per claims 6-8 , the formulations in Bebiak are delivered using ancillary equipment such as tubes (infusion sets) (Col. 5, Ln. 54-67).

As per claims 9-10, Bebiak and Schrier do not teach the steps of registering a veterinarian (professional) nor do they teach the steps of verifying the credit account, processing a charge to the credit account in response to the accepting step, or placing an order. However, this feature is well known in the art and the Examiner takes Official Notice of the use of a registration and account verification system within the prior art. It would have been obvious to one of ordinary skill in the art at the time of the invention to have included a registration and account verification

system with the motivation of providing the user with a secure means to conduct online

transactions while ensuring that only registered users had access to the system.

Further, since the knowledge of electronic registration and accounting verification

systems, in general, has clearly existed in the art prior to Applicant's claimed invention and the

courts have held that even if a patent does not specifically disclose a particular element, said

element being within the knowledge of a skilled artisan, the patent taken in combination with

that knowledge, would put the artisan in possession of the claimed invention. *In re Graves*, 36

USPQ 2d 1697 (Fed. Cir. 1995).

As per claims 11 and 21, in Schrier the user enter a diagnosis (characteristics of a

patient). At the time of the invention one of ordinary skill in the art would have been motivated

to add this aforementioned feature to the system of Bebiak in order to enable the system to

determine drugs and alternative drugs for the user (or for the diagnosis) as recited in Schrier

(Col. 1, Ln. 58-Col. 2, Ln. 43).

As per claim 12, in Schrier the user can consult a doctor or specialist regarding treatment

or dosage information (Col. 25, Ln. 63-Col. 26, Ln. 46). At the time of the invention one of

ordinary skill in the art would have been motivated to add this aforementioned feature to the

system of Bebiak in order to enable the user of the system in Bebiak to obtain online professional

advice regarding a diagnosis or a treatment for a diagnosis.

As per claim 14, in Bebiak the treatment agent dispensing facility is remote (Col. 2, Ln.

26-27).

As per claim 16, in Bebiak the customized pet formulations are packaged (Col. 6, Ln. 1-

12). The examiner takes the position that is it within the scope of Bebiak that one of ordinary

skill in the art would have understood that these packages can be delivered directly to the veterinarians.

As per claims 17-19, the formulations in Bebiak are delivered using ancillary equipment such as tubes (infusion sets) (Col. 5, Ln. 54-67).

As per claim 22, Schrier teaches the step of modifying (changing) the recommendation, wherein in the accepting step the modified (changed) recommendation is accepted (Col. 13, Ln. 12-16).

As per claims 23-24, Bebiak and Schrier do not teach the steps of registering a veterinarian (professional) nor do they teach the steps of verifying the credit account, processing a charge to the credit account in response to the accepting step, or placing an order. However, this feature is well known in the art and the Examiner takes Official Notice of the use of a registration and account verification system within the prior art. It would have been obvious to one of ordinary skill in the art at the time of the invention to have included a registration and account verification system with the motivation of providing the user with a secure means to conduct online transactions while ensuring that only registered users had access to the system.

Conclusion

4.   The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

US Patent Application Publication 2003/0212574 to Olivier is directed towards a system and method for online personalized advice for pets. This reference cannot be used as prior art due to the date of its filing and publication.
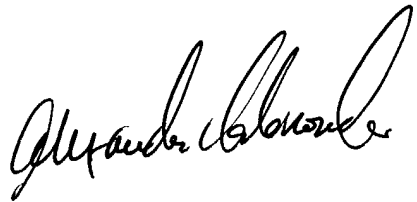
5.   Any inquiry concerning this communication or earlier communications from the

examiner should be directed to **Vivek Koppikar** whose telephone number is **(703) 305-5356**.

The examiner can normally be reached on Monday-Friday from 8 AM to 5 PM, Eastern Time.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's

supervisor, Joseph Thomas, can be reached at (703) 305-9588. The fax phone number for the

organization where this application or proceeding is assigned are (703) 872-9306.

6.   Information regarding the status of an application may be obtained from the Patent

Application Information Retrieval (PAIR) system. Status information for published applications

may be obtained from either Private PAIR or Public PAIR. Status information for unpublished

applications is available through Private PAIR only. For more information about the PAIR

system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR

system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Vivek Koppikar

6/23/04

ALEXANDER KALINOWSKI
PRIMARY EXAMINER